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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/840,029	05/04/2004	Rachel P. Dickens	TJK/467	7774
27717	7590	08/23/2006	EXAMINER	
SEYFARTH SHAW LLP 131 S. DEARBORN ST., SUITE2400 CHICAGO, IL 60603-5803			MANAHAN, TODD E	
			ART UNIT	PAPER NUMBER
			3732	

DATE MAILED: 08/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/840,029	<b>Applicant(s)</b> DICKENS, RACHEL P.	
	<b>Examiner</b> Todd E. Manahan	<b>Art Unit</b> 3732	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 23 is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 May 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>5/4/04</u> . | 6) <input type="checkbox"/> Other: ____.  |

## **DETAILED ACTION**

### ***Information Disclosure Statement***

The information disclosure statement filed 04 May 2004 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered.

### ***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the “further teeth provided along the sides of the triangular formation” must be shown or the feature(s) canceled from the claim(s).

No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet”

pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 11-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In each of claims 11-14, “the handle means” lacks prior antecedent.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 4, and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Woodruff ( United Sates Patent No. 3,545,434).

Woodruff discloses a device comprising a spine A and teeth B arranged in a triangular formation on the spine with a leading tooth being located at the apex of the triangular formation and two other teeth located along the sides of the triangular formation. The triangular formation is an equilateral triangle. The teeth extend orthogonally form the spine.

Claims 1, 2, 4, 8 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Johnston (United States Patent No. 731,575).

Johnston discloses a device comprising a spine 21 and teeth 14' arranged in a triangular formation on the spine with a leading tooth being located at the apex of the triangular formation and two other teeth located along the sides of the triangular formation. The triangular formation is an equilateral triangle. The teeth extend orthogonally from the spine. The teeth are made of metal (see figure 5).

Claims 1, 3, 4, 8, 9-14, 17, and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Bradley (United States Patent No. 911,571).

Bradley discloses a device comprising a spine 4 and teeth 9,13 arranged in a triangular formation on the spine with a leading tooth being located at the apex of the triangular formation and two other teeth located along the sides of the triangular formation. Further teeth are provided along the sides of the triangular formation. The triangular formation is an equilateral triangle. The teeth extend orthogonally from the spine. The teeth are made of metal. Handle means 2 are integral with the spine. Slider means 17 are provided for infinitely altering the spacing between the teeth along the base of the triangular formation.

Claims 1, 3, 4, 7, 8, 10-15, 19-21 are rejected under 35 U.S.C. 102(b) as being anticipated by De Laforcade (United States Patent No. 5,453,909).

De Laforcade discloses a device comprising a spine 4 and teeth 5 arranged in a triangular formation on the spine with a leading tooth being located at the apex of the triangular formation and two other teeth located along the sides of the triangular formation. The triangular formation is an equilateral triangle. Further teeth are provided along the sides of the triangular formation.

The teeth extend orthogonally from the spine. Handle means 2 may be slidably mountable to the spine with a snap fit.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bradley.

Bradley discloses the claimed invention except for the handle being made of wood. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the handle of Bradley of wood, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over De Laforcade in view of Wilson (United States Patent No. 2,598,330).

De Laforcade discloses the invention essentially as claimed except for the teeth having an enlarged head. Wilson discloses it is known in the art to form teeth with an enlarged head 36. It would have been obvious to one skilled in the art to provide the teeth of De Laforcade with enlarged heads in view of Wilson in order to prevent injury to the scalp when the device is used.

Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over De Laforcade in view of Vegh (United States Patent No. 2,261,747).

De Laforcade discloses the invention essentially as claimed except for the brush attached to the opposite end of the handle means. Vegh discloses a device having a comb with teeth on one end of a handle and a brush on the other end. It would have been obvious to one skilled in the art to provide the device of De Laforcade with a brush on the opposite end of the handle in view of Vegh in order to permit the user to brush their hair with the device if desired.

***Allowable Subject Matter***

Claim 23 is allowed.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Todd E. Manahan whose telephone number is 571 272- 4713. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on 571 272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

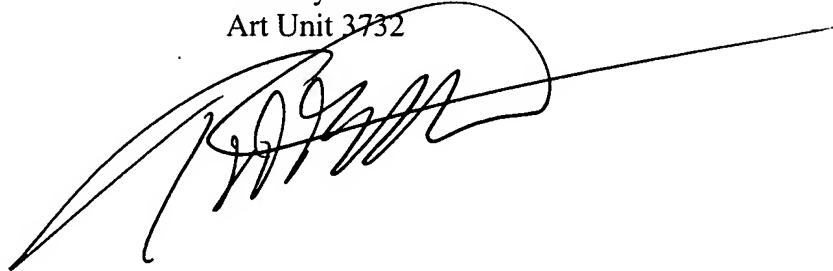
Application/Control Number:  
10/840,029  
Art Unit: 3732

Page 7

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Todd E. Manahan  
Primary Examiner  
Art Unit 3732

T.E. Manahan  
20 August 2006

A handwritten signature in black ink, appearing to read 'T.E. Manahan', is written over the printed name and title. The signature is stylized with a large, sweeping initial 'T' and a long horizontal line extending to the right.